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August 23, 2011

Ernest G. Johnson  
Executive Director  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007

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AZ CORP COMMISSION  
DOCKET CONTROL

Docket Nos. W-04254A-08-0361 and W-04254A-08-0362

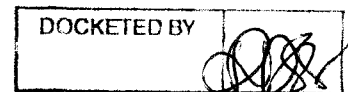
**IN THE MATTER OF THE APPLICATION OF  
MONTEZUMA RIMROCK WATER  
COMPANY, LLC FOR APPROVAL OF A  
RATE INCREASE.**

Arizona Corporation Commission

**DOCKETED**

AUG 23 2011

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**IN THE MATTER OF THE APPLICATION OF  
MONTEZUMA RIMROCK WATER  
COMPANY, LLC FOR APPROVAL OF A  
FINANCING APPLICATION.**  
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**Motion To Compel Montezuma Rimrock Water Company to Produce Records  
Requested in Intervenor's First Set of Data Requests**

On August 2, 2011, Intervenor delivered the First Set of Data Requests to counsel for Montezuma Rimrock Water Company requesting production of all records by August 13, 2011. (Exhibit 1)

On August 12, 2011, Mr. Douglas Fitzpatrick, counsel for MRWC, sent an email to Intervenor providing limited responses to the First Set of Data Requests and stating that the balance of the information will be provided by August 19, 2011. (Exhibit 2)

On August 15, 2011, Intervenor sent a response by email to Mr. Fitzpatrick requesting additional information for several of the items where Mr. Fitzpatrick provided limited information and acknowledging Mr. Fitzpatrick's pledge to produce the balance of the data by August 19, 2011. (Exhibit 3)

As of August 23, 2011, MRWC has failed to respond to Intervenor's following Data Requests:

**1.02 Accounting** – Please provide an electronic copy of the calendar year 2009 and 2010 General Ledgers and the General Ledger from January 1, 2011 through August 1, 2011.

**1.03 Debt**—For each debt issuance in line 224 of the 2010 Annual Report provide a copy of the associated debt terms and agreements. Please explain the discrepancy between line

224 in the Liabilities table in the 2010 Annual Report and the failure to disclose the long term debt on the Supplement Financial Data (Long Term Debt) in the 2010 annual report.

***Therefore, Intervenor requests the Commission to Order Montezuma Rimrock to immediately and fully respond to Intervenor's Data Requests 1.02 Accounting data and 1.03 Debt data.***

As of August 23, 2011, MRWC has failed to fully respond to Intervenor's Data Requests described more fully below:

**Intervenor's Data Request:**

**1.05 Pipeline Construction**—Provide complete copies of all communications, contracts, agreements, receipts, records of payments, deferrals, loans and any other financial consideration in connection with the construction of an approximately 2,500-foot pipeline by Rask Construction Company that began on or about April 18, 2011. The pipeline connects Well No. 4 with the site of a proposed arsenic treatment facility.

MRWC's response included in Mr. Fitzpatrick's August 12, 2011 email to Intervenor stated:

*"1.05 Pipeline Construction: The only documentation responsive to this request is a personal check from Patricia Olsen to the contractor."*

Intervenor's subsequent response sent by email to Mr. Fitzpatrick on August 15, 2011 stated:

"The company's response to 1.05 Pipeline Construction is incomplete and evasive.

Given that Ms. Patricia Olsen is the only shareholder of MRWC, and the pipeline construction was done for the benefit of MRWC, it is appropriate Ms. Olsen provide a copy of her canceled personal check used to pay for construction of the pipeline. As you know, Ms. Olsen stated at the August 10 procedural conference that she spent \$7,000 for this project.

In addition, it is highly unlikely that Ms. Olsen entered into such a major construction agreement with Rask Construction without benefit of a written contract. Please provide a copy of all agreements and contracts between Ms. Olsen and Rask Construction concerning construction of the pipeline, including any financing plans to pay for the balance due on a project Ms. Olsen states in WIFA documents would cost approximately \$42,000."

As of August 23, 2011, Montezuma Rimrock has provided no additional information.

***Therefore, Intervenor requests the Commission to Order Montezuma Rimrock and its managing partner, Patricia Olsen, to produce copies of all checks that were issued by Ms. Olsen and/or Montezuma Rimrock to pay Rask Construction and copies of all agreements and contracts between Ms. Olsen and/or Montezuma Rimrock and Rask Construction in connection with construction of the pipeline to connect Well No. 4 with the proposed arsenic treatment facility.***

**Intervenor's Data Request:**

**1.09 Lenders**—Provide a complete copy of all company applications to private lenders to obtain approximately \$165,000 in financing for construction of an arsenic treatment facility. Include all supplemental information filed by the company in connection with these applications including, but not limited to, MRWC state and federal income tax returns.

MRWC's response included in Mr. Fitzpatrick's August 12, 2011 email to Intervenor stated:

*1.09 Lenders: The loan applications were processed over the phone with prospective lenders or in person; MRWC does not have copies of the applications.*

Intervenor's subsequent response sent by email to Mr. Fitzpatrick on August 15, 2011 stated:

"The company's response to 1.09 Lenders is incomplete and evasive.

MRWC has the ability to request copies of loan applications to all the lenders it has sought funds for the arsenic treatment facility and make those loan applications available for my inspection. Please do so immediately.

Please provide complete copies of all supplemental information provided to lenders, including, but not limited to MRWC's 2010 income tax return. As you know, Sunwest Bank's June 10, 2011 letter (attached) states: "The income reported on your 2010 tax returns shows a net loss for the year and so there is no reported income to support this loan request."

As of August 23, 2011, Montezuma Rimrock has provided no additional information.

***Therefore, Intervenor requests the Commission to Order Montezuma Rimrock to produce copies of all loan applications to private lenders in connection with construction of the arsenic treatment facility and complete copies of all supplemental information, including income tax returns.***

**Intervenor's Data Request:**

**1.06 Utilities**—Provide a copy of electric bills (consumption of electricity and dollar cost) for each of the company's well sites (Well No. 1, Well No. 2 and Well No. 4) from January 1, 2010 through August 13, 2011.

On August 17, 2011, Mr. Fitzpatrick sent via email copies of electric bills for Wells No. 1, 2 and 4. (Exhibit 4)

However, rather than sending the complete bills as requested in the Data Request, Montezuma Rimrock removed the second page from each bill that details electricity consumption for each well. Montezuma Rimrock also failed to include bills from calendar year 2010. Finally, Montezuma Rimrock failed to include the August 2011 bill that MRWC has already received. The August bill is for the time period between approximately July 3 and Aug. 3, 2011 and bills were received by approximately August 10, 2011.

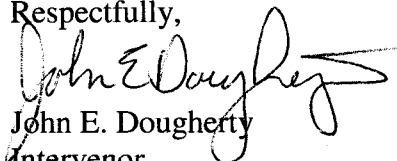
On August 17, 2011, Intervenor sent three emails to Mr. Fitzpatrick detailing the shortcomings of his response and requesting production of records. (Exhibit 5). As of August 22, 2011, Montezuma Rimrock has not responded.

***Therefore, Intervenor requests the Commission to Order Montezuma Rimrock to produce the full and complete copies of electric bills for Wells No. 1, 2 and 4 from January 2010 through August 2011.***

As the Commission knows, Intervenor has also been granted Intervenor status in Montezuma Rimrock's Emergency Rate Increase W-04254A-11-0296. On August 22, 2011, Intervenor mailed and sent by email First Set of Data Requests seeking information enumerated above and additional information. Given the immediacy of the Emergency Rate Hearing scheduled for September 22, 2011, Intervenor respectfully requests the Commission to expedite Intervenor's Motion to Compel Production of Records in this docket. 23 *Deel*

I hereby certify that a copy of this Motion to Compel has been mailed to the Montezuma Rimrock Water Company, PO Box 10, Rimrock, AZ, 86335 and to its attorney, Douglas C. Fitzpatrick, 49 Bell Rock Plaza, Sedona, AZ 86351. Dated at Phoenix, Arizona on this 23rd Day of August, 2011.

Respectfully,

  
John E. Dougherty

Intervenor

PO Box 501

Rimrock, AZ 86335

**MONTEZUMA RIMROCK WATER COMPANY  
DOCKET NOs. W-4254A-08-0361, W-425A-08-0362**

**INTERVENER JOHN E. DOUGHERTY'S FIRST SET OF DATA REQUESTS**

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1.01 Data Requests – Please provide copies of all data requests and the Company's responses to such requests to ACC staff and all other parties in this Docket.

1.02 Accounting – Please provide an electronic copy of the calendar year 2009 and 2010 General Ledgers and the General Ledger from January 1, 2011 through August 1, 2011.

1.03 Debt—For each debt issuance in line 224 of the 2010 Annual Report provide a copy of the associated debt terms and agreements. Please explain the discrepancy between line 224 in the Liabilities table in the 2010 Annual Report and the failure to disclose the long term debt on the Supplement Financial Data (Long Term Debt) in the 2010 annual report.

1.04 Debt—For all debts, short term and long term, encumbered from January 1, 2011 through August 1, 2011 please provide a copy of the associated debt terms and agreements and the purpose for which the debt was incurred.

1.05 Pipeline Construction—Provide complete copies of all communications, contracts, agreements, receipts, records of payments, deferrals, loans and any other financial consideration in connection with the construction of an approximately 2,500-foot pipeline by Rask Construction Company that began on or about April 18, 2011. The pipeline connects Well No. 4 with the site of a proposed arsenic treatment facility.

1.06 Utilities—Provide a copy of electric bills (consumption of electricity and dollar cost) for each of the company's well sites (Well No. 1, Well No. 3 and Well No. 4) from January 1, 2010 through August 13, 2011.

1.07 Sublease—Provide a complete record of accounts of rents received or waived to any person(s) who occupied as living space the Montezuma Rimrock Water Company office located 4615 E. Goldmine Road, Rimrock, AZ 86335. This request covers the time period from when such office space was first used as a residence though August 1, 2011.

1.08 Office—Provide a complete accounting of space used inside 4615 E. Goldmine Road that is dedicated to company operations. Provide all accounting records used to determine how much money is charged to ratepayers in connection with MRWC office space.

1.09 Lenders—Provide a complete copy of all company applications to private lenders to obtain approximately \$165,000 in financing for construction of an arsenic treatment facility. Include all supplemental information filed by the company in connection with these applications including, but not limited to, MRWC state and federal income tax returns.

1.10 Rates—Provide a complete copy of the company's approved ACC tariffs. Provide a complete copy of the company's rates published on its Website as of August 3, 2011. Provide a complete copy of agreements with all new MRWC customers from January 1, 2009 through August 1, 2011 including the rates, and hook up fees charged to new customers.

1.11 Customer Counts—Provide the customer counts by months since acquiring the company from the Montezuma Property Owners Association through August 1, 2011.

1.12 Montezuma Rimrock Fire District—Provide copies of all correspondence between the company and MRFD from January 1, 2005 through August 1, 2011.

1.13 Shareholder Information—Provide a list the names of all shareholders that have had an ownership stake in the Montezuma Rimrock Water Company LLC since the company was formed. Please include the number of shares owned by each shareholder and the dates shareholders purchased or sold shares and the value per share of such transactions.

Exhibit 2



John Dougherty &lt;jd.investigativemedia@gmail.com&gt;

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## Response to John E. Dougherty's First Set of Data Requests

4 messages

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Doug Fitzpatrick &lt;fitzlaw@sedona.net&gt;

Fri, Aug 12, 2011 at 11:42 AM

To: jd.investigativemedia@gmail.com, dbroyles@azcc.gov, Patricia Olsen &lt;patsy@montezumawater.com&gt;

- 1.01 Data Requests: n/a
- 1.02 Accounting: The general ledgers for 2009, 2010 and 2011 through the present will be supplied prior to August 19, 2011.
- 1.03 Debt: Will respond to this request prior to August 19, 2011.
- 1.04 Debt: MRWC has not acquired short term or long term debt since January 2, 2011.
- 1.05 Pipeline Construction: The only documentation responsive to this request is a personal check from Patricia Olsen to the contractor.
- 1.06 Utilities: The electric bills for the time frame requested will be supplied prior to August 19, 2011.
- 1.07 Sublease: There is no record of "accounts of rents received or waived to any person[s] who occupied as living space the MRWC office..."
- 1.08 Office: The living room, one bed room, back patio and garage are used by the water company.
- 1.09 Lenders: The loan applications were processed over the phone with prospective lenders or in person; MRWC does not have copies of the applications.
- 1.10 Rates: the company's rates as "published on its website as of August 3, 2011" are available to Mr. Dougherty from the web site and are a matter of public record with the Arizona Corporation Commission. The company does not enter written agreements with its customers. They simply fill out application forms in order to initiate service.
- 1.11 Customer Counts: This information is a matter of public record through the corporation commission.
- 1.12 Montezuma Rimrock Fire Department: The only correspondence responsive to this request is an e-mail from Chief Mike VanDyke dated January 12, 2010. It has to do with flood conditions in the area at or about the time the e-mail was sent. A copy of the e-mail will be supplied prior to August 19.
- 1.13 Shareholder Information: Patricia Olsen is the only shareholder of the company.

The information set forth above was supplied by Patricia Olsen, owner/operator of MRWC. Any

questions about the data should be directed to Ms. Olsen through her undersigned attorney.

Douglas C. Fitzpatrick

cc:

John E. Dougherty

PO Box 501

Rimrock, AZ 86335



Exhibit 3

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been scanned to detect malicious content. If you experience problems, please e-mail [postmaster@azcc.gov](mailto:postmaster@azcc.gov)  
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**John Dougherty <[jd.investigativemedia@gmail.com](mailto:jd.investigativemedia@gmail.com)>****Mon, Aug 15, 2011 at 4:20 PM****To:** Doug Fitzpatrick <[fitzlaw@sedona.net](mailto:fitzlaw@sedona.net)>**Bcc:** Ivo <[ivorls@gmail.com](mailto:ivorls@gmail.com)>

Mr. Doug Fitzpatrick:

This is my first response to your reply to my First Data Request dated August 2, 2011.

As of August 15, 2011, MRWC has not responded to 1.01, 1.02, 1.03, 1.04 and 1.06. The company states it will provide these documents on or before August 19, 2011.

The company's response to 1.05 Pipeline Construction is incomplete and evasive.

Given the Ms. Patricia Olsen is the only shareholder of MRWC, and the pipeline construction was done for the benefit of MRWC, it is appropriate the Ms. Olsen provide a copy of her canceled personal check used to pay for construction of the pipeline. As you know, Ms. Olsen stated at the August 10 procedural conference that she spent \$7,000 for this project.

In addition, it is highly unlikely that Ms. Olsen entered into such a major construction agreement with Rask Construction without benefit of a written contract. Please provide a copy of all agreements and contracts between Ms. Olsen and Rask Construction concerning construction of the pipeline, including any financing plans to pay for the balance due on a project Ms. Olsen states in WIFA documents would cost approximately \$42,000.

The company's response to 1.09 Lenders is incomplete and evasive.

MRWC has the ability to request copies of loan applications to all the lenders it has sought funds for the arsenic treatment facility and make those loan applications available for my inspection. Please do so immediately.

Please provide complete copies of all supplemental information provided to lenders, including, but not limited to MRWC's 2010 income tax return. As you know, Sunwest Bank's June 10, 2011 letter (attached) states: "The income reported on your 2010 tax returns shows a net loss for the year and so there is no reported income to support this loan request."

Concerning 1.11 Customer Counts, I am not seeking ACC records but

rather MRWC's records. Please provide MRWC's records of customers counts by months since acquiring the company from the Montezuma Property Owners Association through August 1, 2011.

John Dougherty

PO Box 501  
Rimrock, AZ  
86335

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John Dougherty  
InvestigativeMedia.com  
602-710-4089



**sunwest61011letter.pdf**  
56K

John Dougherty <[jd.investigativemedia@gmail.com](mailto:jd.investigativemedia@gmail.com)>

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**FW: APS**

6 messages

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**Doug Fitzpatrick** <[fitzlaw@sedona.net](mailto:fitzlaw@sedona.net)>  
To: [jd.investigativemedia@gmail.com](mailto:jd.investigativemedia@gmail.com)  
Cc: Patricia Olsen <[patsy@montezumawater.com](mailto:patsy@montezumawater.com)>

Wed, Aug 17, 2011 at 7:44 AM

Mr. Dougherty –

Here are the APS bills.

~Doug Fitzpatrick 928 284 2190

-----Original Message-----

**From:** Patricia Olsen [<mailto:patsy@montezumawater.com>]

**Sent:** Tuesday, August 16, 2011 6:34 PM

**To:** [fitzlaw@sedona.net](mailto:fitzlaw@sedona.net)

**Subject:** APS

*Patricia Olsen, President*

*Montezuma Rimrock Water Co. LLC*

*P.O. Box 10, Rimrock, AZ 86335*

*928-592-9211*

*[www.MontezumaWater.com](http://www.MontezumaWater.com)*


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**3 attachments**

**Well 1.pdf**  
1829K



**Well 2.pdf**  
1832K

 **Well 4.pdf**  
1801K

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**Doug Fitzpatrick <fitzlaw@sedona.net>**  
To: jd.investigativemedia@gmail.com  
Cc: Patricia Olsen <patsy@montezumawater.com>


Wed, Aug 17, 2011 at 7:46 AM


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**3 attachments**

 **Well 1.pdf**  
1829K

 **Well 2.pdf**  
1832K

 **Well 4.pdf**  
1801K

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**John Dougherty <jd.investigativemedia@gmail.com>**  
To: Doug Fitzpatrick <fitzlaw@sedona.net>

Wed, Aug 17, 2011 at 8:56 AM

*Exhibit 5*

Mr. Fitzpatrick, Thank you for the APS bills.

The documents are not fully responsive to my request which specifically included the complete bill, including electricity consumption for each well site for each month.

1.06 Utilities—Provide a copy of electric bills (consumption of electricity and dollar cost) for each of the company's well sites (Well No. 1, Well No. 3 and Well No. 4) from January 1, 2010 through August 13, 2011.

Please provide the complete APS bill including all kilowatt hours consumed at each well site for each month requested.

John Dougherty

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John Dougherty  
InvestigativeMedia.com  
602-710-4089

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**John Dougherty <jd.investigativemedia@gmail.com>**  
To: Doug Fitzpatrick <fitzlaw@sedona.net>

Wed, Aug 17, 2011 at 9:01 AM

Mr. Fitzpatrick, In addition, please include the complete August APS bills, including electricity consumption, for all three wells.

The meters were read on or about August 4 and the bills have been sent by APS to MRWC and are payable

on or about August 20.

Thank you,

John

[Quoted text hidden]

[Quoted text hidden]

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**John Dougherty <jd.investigativemedia@gmail.com>**

**Wed, Aug 17, 2011 at 9:15 AM**

To: Doug Fitzpatrick <fitzlaw@sedona.net>

Mr. Fitzpatrick: My apologies for the third response to your email, but I continue to find shortcomings in your production of records.

First, I asked for APS records from Jan 1, 2010 through Aug. 13, 2011. You have only provided records from January 2011 through July 2011 for Well No. 1, 2 and 4.

Second, you also have failed to include the second page of the APS bills for all three wells. The second page includes a record of electricity consumption. I specifically asked for all APS billing records, including electricity consumption, for each well site, in my first Data Request.

Please provide the following:

1. The *complete* APS bills from Jan. 2, 2010 through Aug. 13, 2011 for all three wells. Please include page 2 of the APS bill which details electricity consumption for all three wells.
2. Please provide the complete APS bill for August 2011 for all three wells. As stated in previous emails, the meters were read on or about August 4 and the bills have been sent to MRWC. The bill is payable on or about August 20.

Thank you,

John

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